

38 N.J.R. 4157(a)

NEW JERSEY REGISTER
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VOLUME 38, ISSUE 19
ISSUE DATE: OCTOBER 2, 2006

RULE PROPOSALS

**HIGHER EDUCATION
COMMISSION ON HIGHER EDUCATION**

38 N.J.R. 4157(a)

Proposed Amendments: *N.J.A.C. 9A:1-1.2, 2.1, 7.1, 7.2 and 7.5*

Licensure Rules

Distance Learning and Other Modes of Educational Delivery

Authorized By: Commission on Higher Education, Laurence M. Downes, Chair.

Authority: *N.J.S.A. 18A:68-3*.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2006-327.

Submit written comments by December 1, 2006 to:

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The agency proposal follows:

Summary

The Commission on Higher Education is responsible for licensing institutions of higher education to offer college credit-bearing coursework in New Jersey. The Commission's licensure rules (*N.J.A.C. 9A:1*) set forth the standards that any institution or other entity seeking to offer academic credit-bearing courses or programs must meet to qualify for a license. One aspect of the licensing rules concerns provisions regarding distance learning provided by higher education institutions located in New Jersey. Due to changes and expansions in the field, revision of five sections of the rules regarding distance learning is proposed to ensure there is a uniform standard for all educational offerings of colleges and universities.

The proposed amendments for *N.J.A.C. 9A:1-1.2* eliminate the definition of "distance learning" and establish a broader definition for "educational delivery mode," which includes distance learning, blended (or hybrid) learning, and traditional face-to-face learning. The change is necessary, because the current definition of "distance learning" covered only courses/programs in which all or a majority of the instruction occurs when the learner and instructor are not physically present in the same place at the same time. The proposed definition of "educational delivery mode" reflects the reality that colleges and universities are increasingly offering courses by delivery modes all along a spectrum, from

those offered entirely by distance learning, to those offered with a distance learning component, to those offered entirely in a face-to-face setting under the direct supervision of the instructor.

The additional proposed amendment to *N.J.A.C. 9A:1-1.2* revises the definition of "semester credit hour" to add the term "face-to-face," clarifying the standard for the traditional educational mode of delivery. It also proposes to change two hours to 100 minutes each week of laboratory or outside assignments to make time for outside assignments accord with the time for class activity.

The proposed amendment to *N.J.A.C. 9A:1-2.1(c)* clarifies that blended (or hybrid) learning, like distance learning, does not require a semester credit hour to be counted on an hour-for-hour basis. *N.J.A.C. 9A:1-2.1(e)* proposes additions to set a uniform standard for all the educational offerings of colleges and universities, whatever the mode of delivery. The amendments also permit the offering of blended (or hybrid) courses in the State when distance learning constitutes less than a majority of the coursework, and provides a standard by which credit-bearing blended courses/programs can be assessed when new in-State or out-of-State institutions petition for licensure to offer them in New Jersey.

The proposed amendment at *N.J.A.C. 9A:1-7.1(b)* complements the new definition of "educational delivery mode" and sets a uniform standard for all the educational offering of colleges and universities, whatever the mode of delivery. *N.J.A.C. 9A:1-7.1(e)* includes faculty and academic professionals involved in blended (or hybrid) learning to those required to have an understanding of distance education. Finally, *N.J.A.C. 9A:1-7.1(g)* adds individuals, such as tutors or proctors for students enrolled in blended (or hybrid) courses to those who must be approved by the institution offering the course/program.

The proposed amendment at *N.J.A.C. 9A:1-7.2* adds collaborative blended (or hybrid) learning degree programs to those for which institutions offering the programs must determine the institutions that will grant the degree.

The amendment proposed at *N.J.A.C. 9A:1-7.5(b)* brings the language for addressing a change in an out-of-State institution's distance learning offerings with a physical presence into conformity with the language in *N.J.A.C. 9A:1-5.1(f)* for addressing changes in traditional face-to-face offerings from out-of-State institutions.

As the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to *N.J.A.C. 1:30-3.3(a)5*.

Social Impact

The Commission's licensure rules establish criteria to ensure that any institution (public, private, or proprietary, whether located in the State or not) offering college-level coursework in New Jersey meets standards of quality. Application of these standards protects the citizens of New Jersey; individuals attending a licensed college, university, or degree granting proprietary institution in New Jersey; and employers who hire graduates. As part of the licensure rules, the Commission is responsible for provisions regarding distance learning at institutions of higher education. Colleges and universities are increasingly incorporating technology into the classroom, and the number of traditional courses that now use distance learning to supplement the curriculum is growing rapidly. Educational offerings now fall along a spectrum from those that are delivered entirely face-to-face under the direct supervision of the instructor, to those that are delivered partly in a traditional face-to-face setting and partly by distance learning, to those that are delivered entirely by distance learning modes. The amendments proposed to the licensure rules will set a uniform standard for all the educational offerings of colleges and universities, whatever the mode of delivery, and provide a standard by which credit-bearing blended courses/programs can be assessed when in-State colleges or out-of-State institutions petition for licensure to offer them in New Jersey.

Economic Impact

The proposed amendments may have an economic impact on some New Jersey higher education institutions, in that the schools may have to allocate or reallocate resources (employees, materials, equipment, etc.) to ensure compliance with the standards, but compliance would not always represent additional cost.

Federal Standards Statement

The proposed amendments are not subject to a Federal standards analysis under Executive Order No. 27 (1994)/N.J.S.A. 52:14B-2.3 because the licensure function of the Commission on Higher Education is not subject to any Federal requirements or standards.

Jobs Impact

The proposed amendments will not result in the generation or loss of any jobs.

Agriculture Industry Impact

The proposed amendments will have no impact on the agriculture industry.

Regulatory Flexibility Analysis

There are nine colleges and universities within New Jersey, which are considered to be small businesses as defined under *N.J.S.A. 52:14B-16* et seq., the Regulatory Flexibility Act (Act). The other colleges and universities in the State employ more than 100 full-time employees, and are not considered "small businesses" under the Act.

The proposed amendments will require colleges and universities providing credit-bearing courses or programs to meet uniform standards for all the educational offerings of colleges and universities, whatever the mode of delivery. In order to meet these requirements, the schools may have to allocate resources (employees, materials, equipment, etc.) to ensure compliance with the standards, but may not always represent additional cost. The rules do not contain burdensome reporting requirements.

The nine colleges and universities that qualify as "small businesses" are held to the same standards as colleges offering similar instruction. The standards cannot be lessened for small businesses of this nature without seriously diluting the quality of the college-level education offered by those institutions. Therefore, no differing standards based on business size are offered.

Smart Growth Impact

The proposed amendments will have no impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

9A:1-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

...

["Distance learning" means a formal educational process in which all or a majority of the instruction occurs when the learner and the instructor are not physically located in the same place at the same time.]

...

"Educational delivery mode" means a formal educational process involving one of the following options:

- 1. "Distance learning," in which instruction occurs when the learner and the instructor are not physically located in the same place at the same time;**
- 2. "Blended (or hybrid) learning," in which a part of the instruction occurs when the learner and the instructor are physically located in the same place at the same time, but a part of the instruction occurs by distance learning; and**
- 3. "Traditional face-to-face learning," in which all of the instruction takes place in the classroom or in out-of-class instruction under the direct supervision of the instructor.**

...

"Semester credit hour" means 50 minutes of **face-to-face** class activity each week for 15 weeks (or the equivalent attained by scheduling more minutes of **face-to-face** class activity per week for fewer weeks in the semester) in one semester complemented by at least [two hours] **100 minutes** each week of laboratory or outside assignments (or the equivalent thereof for semesters of different length).

...

9A:1-2.1 General program standards

(a)-(b) (No change.)

(c) A semester credit hour shall not be counted on an hour-for-hour basis for library, independent-study, laboratory, or physical education activities. No more than one semester credit hour shall be granted for an experience compressed into one week's time or less unless prior approval is obtained from the Presidents' Council. A semester credit hour is not required to be counted on an hour for hour basis for distance learning **or blended (or hybrid) learning**.

(d) (No change.)

(e) **The rigor of all credit-bearing courses shall be substantially the same, regardless of the type of educational delivery mode ("distance learning," "blended (or hybrid) learning" or "traditional face-to-face learning"), as demonstrated by the institution through various forms of evidence. Such evidence shall include, but shall not be limited to, at least two of the following: syllabi, documented faculty interaction with students, learning outcomes, documented units of curricular material and other documentation which objectively demonstrates the amount of time and/or the level of rigor necessary to complete the coursework. Institutions of higher education offering or proposing to offer a course solely through only one educational delivery mode may demonstrate the rigor of the course through comparisons with the above forms of evidence for similar courses offered by institutions accredited by the Middle States Association.**

subchapter 7. distance learning

9A:1-7.1 Standards for New Jersey institutions

(a) (No change.)

(b) The institution's policies and objectives associated with distance learning **and blended (or hybrid) learning** offerings shall be consistent with those established for other [learning environments] **educational delivery modes and shall comply with the standards set forth in N.J.A.C. 9A:1-2.**

(c)-(d) (No change.)

(e) Faculty and academic professionals involved in distance learning **and blended (or hybrid) learning** shall have an understanding of distance education, its special characteristics, and the needs of distance learners.

(f) (No change.)

(g) Individuals outside the traditional campus community who act in capacities such as tutors or proctor for students enrolled in distance learning **and blended (or hybrid) learning** shall be approved by the institution offering the course/program.

9A:1-7.2 Granting degrees for programs provided collaboratively

In the case of collaborative distance learning **and blended (or hybrid) learning** degree programs, it is the responsibility of the institutions offering the programs to determine which institution(s) will grant the degree.

9A:1-7.5 Approval for out-of-State institutions

(a) (No change.)

(b) If an out-of-State institution is licensed to offer a courses(s) or degree program(s) in New Jersey[, the Presidents' Council shall review any additional course(s) or programs that it wishes to offer with a physical presence in this State] **and wishes to offer any additional course(s) or program(s) with a physical presence in this State, the Executive Director shall submit the matter to the Presidents' Council for review and recommendation to the Commission.**